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OFFICE OF PETITIONS

In re Application of
Abdallah et al.
Application No. 09/783,875
Filed: February 14, 2001
Attorney Docket No. 42390P4912X

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed March 20, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 21, 2001. A Notice of Abandonment was mailed on October 8, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply,¹
- (2) the petition fee,
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition

¹ In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.²

The instant petition lacks item (1). The declaration submitted with the petition lacks compliance with 37 CFR 1.63 and 1.64. The declaration fails to set forth Hsien-Cheng E. Hsieh's citizenship, residence and mailing address and does not include the fact that the inventor is deceased on the declaration. Additionally, the declaration does not identify a legal representative by name, residence, citizenship and mailing address. Therefore, a declaration in compliance with 37 CFR 1.63 and 1.64 is required. Accordingly, a new declaration which lists all the inventors and is signed by all the signing inventors and the legal representative is required. See MPEP 409.

Further correspondence with respect to this matter should be addressed as follows:


By mail: Mail Stop PETITION
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Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.


Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

² See MPEP 711.03(c)(III)(C) and (D).